COMMENT SET 5: CONCERNED PUBLIC

(03/01/2010) Scott McFarlin - Shell Martinez Marine Oil Terminal Page 1

From: concerned public <concernedbapublic@gmail.com>
To: <mcfarls@slc.ca.gov>
Date: 02/24/2010 5:00 PM
Subject: Shell Martinez Marine Oil Terminal

Pls. consider the following issues as it relates to the above project:

1. What is the term of Shell's current lease? Assuming the term of the existing lease is less than 30 years, would renewing it to a smaller term hinder Shell's operational viability? Simply stated, aside from the administrative paperwork what is the net benefit to Shell/the CSLC in granting an extended lease term? **CP-1**

2. Per info contained in Shell's T5 permit on the BAAQMD's website there do not seem to be any limits for materials throughput at the four marine loading berths (S-2001 through S-2004). In light of the above, what does the "current" marine terminal throughput of 17 MBPY reflect? Is it a baseline average of some sort, or does the CSLC's permit have any such limits? **CP-2**

3. It appears that the wharf emissions associated with vessels calling at the terminal and S-2001 through S-2004 are capped (~limited) by the facility baseline profile (in lbs/day) outlined in permit condition 7618. In addition, Tables VII and VIII in the above permit condition contain explicit emission factors (e/f's) for estimating emissions associated with the wharf operations and shipping emissions (associated with combustion of various types of fuels in the ships engine). In light of the above, how were emissions from wharf and shipping operations originally estimated by Shell? Simply stated, what material throughput at the wharf and how many vessels calling at the terminal were taken into account? Did Shell evaluate the Toxic Air Contaminant (TAC) emissions stemming from the wharf and ship operations? If so, what was the outcome. Did the calc take into account transport emissions from ships, tugs, barges, etc. which is discussed later? **CP-3**

4. As it currently exists, how does Shell track wharf and ship emissions? What percentage of the total emissions cap under permit condition 7618 is made up of the wharf and ship emissions? Going forward, how would the wharf and ship emissions be tracked/estimated? **CP-4**

5. What types of ships call at Shell's terminal (Panamax, etc.)? Do the emission factors vary between ship types? On an average, how long does it take a ship to travel to the Shell terminal from the moment it enters the SF Bay, and how long does it take to load/unload a ship at the wharf? What materials/products do ships typically deliver to/receive from Shell? Do the ships exclusively call at the Shell terminal, or do they also deliver to/receive materials from other refineries? Do tug boats accompany ships calling at the Shell terminal from the moment they enter the SF Bay? Were any/all of the above considered by the EIR's authors? **CP-5**

6. What types of barges call at Shell's terminal? Do the emission factors vary between barge types? Do barges calling at Shell's terminal only operate within the SF Bay? If not and on an average, how long does it take a barge to travel to the Shell terminal from the moment it enters the SF Bay, and how long does it take to load/unload a barge at the wharf? What materials/products do barges typically deliver to/receive from Shell? Were any/all of the above considered by the EIR's authors? **CP-6**

7. Have any of the existing (in the REFEMS cap)/proposed emission calculations taken into account transport emissions from ships when operating within the SF Bay, or within California Coastal Waters. Specifically, do the emission calc account for the total (round-trip) number of nautical miles each of the vessels (ships, et al) travel from their point of entry (into the SF Bay from the Golden Gate Bridge onward) to their destination (Shell terminal). Because barges and tugboats emit as much/more than ships, their transport emissions must not be ignored even if they may not travel as far as ships. **CP-7**

8. As proposed, Shell's "anticipated maximum" of materials throughput at the terminal is expected to go up by ~59% (from 17 MBPY to 27 MBPY), and the annual vessel traffic is expected to go up by ~25% (from 265 vessels to 330 vessels). In light of the above, how are materials (raw, intermediates, finished, etc.) received by and sent from Shell (trucks, pipelines, vessels, etc.)? What is the percent breakdown for each mode of conveyance/receipts? **CP-8**

9. It appears from Shell's T5 permit that the quantity of crude throughput at its crude unit (S-1420) is capped at 178,800 BPD. Assuming all crude received by Shell (as proposed) is via vessels and is first processed at S-1420, would the proposed increase in estimated crude receipts at the wharf imply S-1420 and/or any of the processing/tankage units downstream of it would be debottlenecked to accommodate the increase? Stated differently, is Shell's "anticipated maximum" a prelude to a larger project which the EIR authors may/may not be aware of? **CP-9**

10. What factors determine the maximum capacity of a terminal? In other words, the EIR states that the max. capacity of the Shell terminal is 50 MBPY. Is the above value based on some limiting factor(s) in either Shell's T5 permit and/or the CSLC permit, or are there other engineering limitations that dictate the capacity of a terminal? **CP-10**

11. Under AQ-1: What do the terms "measured" and "calculated" criteria pollutant emissions mean? Likewise, what does the term "yearly BAAQMD permitted levels" mean? Simply stated, in the absence of any explicit limits in Shell's T5 permit/calc methodology relating to ship & wharf emissions, how did Shell/the EIR authors conclude that there would be no significant air quality emission impacts? At a minimum, were the "Pre-Project" and "Post-Project" scenarios associated with criteria pollutants and Toxic Air Contaminants (TAC) evaluated via emission calc/air modeling software? **CP-11**

12. Under AQ-2: As previously stated, the wharf emissions associated with vessels calling at the Shell terminal are capped by the facility baseline profile outlined in the REFEMS cap. In the absence of supporting calcs detailing how the emission cap relating to wharf & ship emissions was created, or how Shell tracks existing wharf and ship emissions at its terminal, how can the impacts from the proposed ~68% increase in vessel traffic (from 196 to 330) be deemed adverse but less than significant? Has Shell evaluated the net increase in criteria pollutants and TAC emissions via emission calculations/air modeling software under the "Pre-Project" and "Post-Project" scenarios in light of the newly amended Reg. 2-5 whose trigger levels in Table 2-5-1 take into account the Age Sensitivity Factors. **CP-12**

13. Under AQ-3: What is the duration of the dredging activity? What sort of fuels would be combusted in the equipment associated with dredging? What TAC **CP-13**

emissions (if any) would be emitted by such equipment? Would the resulting TAC emissions be below their corresponding acute and chronic trigger levels in the recently revised Table 2-5-1 of Reg. 2-5? Assuming the risks were evaluated under the "Pre-Project" and "Post-Project" scenarios, what were they? In the absence of supporting calcs/the associated Health Risk Screening Analysis, how can the impacts from the proposed dredging operations be deemed adverse but less than significant? **CP-13 cont.**

14. Table's 4.6-1 and 4.6-5 are out of date. The State and Federal standards for some of the pollutants have changed. **CP-14**

15. If EIR intended to evaluate data for the last three years, why were years 2001 through 2003 considered as opposed to years 2007 through 2009? Please refer to Table 4.6-1 and the paragraph below it. **CP-15**

16. The overall reduction efficiency of any abatement device (including the Vapor Control System "VCS") is the product of the capture efficiency of the displaced vapors times the destruction/removal efficiency (VCS in this case)? In light of the above, does the capture efficiency vary between the types of ships/barges calling at the terminal? What is the destruction/removal efficiency of the VCS? What overall reduction efficiency of the VCS was assumed in the calc? **CP-16**

17. Did the baseline emission calc take into account transport emissions from ships, tugs, barges, etc. Whereas it is reasonable to use the 1995 ship traffic value of 363 vessels per year to estimate the baseline emissions, it is equally reasonable to expect that the "Post-Project" emissions would never exceed the "Pre-Project"/baseline emissions levels. Simply stated, setting a high emissions baseline would imply that air quality impacts from a proposed project(s) are adverse but insignificant & would pale in comparison. For example, if the same data set of e/f's in Tables VII and VIII of permit condition 7618 are used to estimate the 1995 (baseline/Pre-Project) emissions and the proposed (Post-Project) emissions, then there would be a net decrease in emissions associated with the proposed vessel traffic of 330 vessels per year. In reality and as with other technolgies, engines propelling ships have evolved over the years and are far less polluting than their predecessors. Therefore, it is imperative to establish a realistic baseline. Else, it would be impossible to assess emissions/impacts from future projects. **CP-17**

18. What is the difference between "Total REFEMS Emissions" and "Total REFEMS Regulatory Limit" in Table 4.6-2? Are "Total REFEMS Emissions" and "Total REFEMS Regulatory Limit" the "actual" and "permitted" emissions? For example, did all sources under the REFEMS cap (including the wharf & ship emissions) actually emit 3,115.9 TPY of NOx in 1995 even though they were permitted to emit up to 3,674.7 TPY of the above pollutant. Also, how was the "Total REFEMS Regulatory Limit" derived? **CP-18**

RESPONSES TO COMMENT SET 5: CONCERNED PUBLIC

General Response. Many of the questions posed by this commenter relate to the history and development of Bay Area Air Quality Management District (BAAQMD) permits for the Shell Martinez Refinery and adjacent Shell Martinez Marine Terminal (Shell Terminal) in connection with BAAQMD's regulatory jurisdiction over both facilities. The comments focus primarily on Draft Environmental Impact Report (EIR) Section 4.6 (Air Quality) and Appendix E (Air Quality Analysis Report) and BAAQMD's Title V Permit for the Shell Refinery. The Project for which this EIR has been prepared is a 30-year lease of land underlying the Shell Terminal, which has operated continuously at its current location since approximately 1915. The lease, if granted by the California State Lands Commission (CSLC), will contain provisions related to the use of the lease as part of the Shell Terminal. Shell is required to comply with all applicable agency laws, rules, regulations, and permits for the Shell Terminal and its operations, including those adopted by the BAAQMD, and the CSLC lease does not supersede such approvals.

One of the purposes of EIR Section 4.6 (Air Quality) is to demonstrate that under a worst case scenario, involving Terminal activity greater than that projected during the term of the lease, the Shell Terminal will continue to comply with all applicable laws, rules, regulations and permits issued by the BAAQMD governing Shell's operations. The CSLC staff has consulted with BAAQMD staff in preparing this Final EIR. BAAQMD staff also received the Draft EIR for review but did not submit formal comments to the CSLC.

CP-1 See Alternative Lease Option 1 (EIR Section 3.2.6 [Alternative Lease Options]). The current Shell Terminal lease has a 15-year initial term with three 10-year options to extend the lease term (45 years total); the lease was preceded by a similar long-term lease. After the first option period expired, Shell elected to seek, and applied to the CSLC for, a new 30-year lease. Marine terminals at refinery facilities require long-term leases in order to justify the significant annual and periodic investments required to maintain the facilities and to comply with changing regulatory mandates. The Shell Terminal is an essential part of the Shell Martinez Refinery, without which the Refinery would not continue to exist (see EIR Section 3 [Alternatives]). A 30-year lease will provide Shell with certainty for future planning and investment related to Refinery operations.

CP-2 See EIR Sections 1.2 (Purpose and Scope of the EIR), 2.2 (Project Background), and 4.6 (Air Quality, Environmental Setting). The Project action addressed in this Final EIR is not a permit, but rather a lease of the submerged land upon which Shell operates its Marine Terminal. As discussed in EIR Section 2.3.4 (Volumes and Types of Materials Handled in Recent Years), the BAAQMD's permitted throughput at the Shell Refinery is 163,000 barrels per day (bpd) annual average (59 million barrels per year [bpy]) with a 178,800 bpd maximum average. In contrast, Shell Terminal projections range from approximately 46,575 bpd (17 million bpy) in 2004 to an anticipated future maximum of 73,972 bpd (27 million bpy) (see EIR Section 2.3.5 [Existing and Anticipated Maximum Vessel Calls at the Shell Terminal over

the Proposed Lease Period]). The 17 million bpy throughput value reflects the use as of the date of the Notice of Preparation [NOP] for this EIR). This corresponds to annual ship and barge traffic of approximately 265 vessels on average (current) to an estimated 260 to 330 vessels (anticipated). This anticipated range is based on increased Shell Terminal use via increased crude oil receipts rather than product deliveries (the Shell Terminal lease does not limit throughput); any limits are imposed by the physical constraints of the Shell Terminal and by regulations and/or permits issued by the BAAQMD and other regulatory agencies. See also Response to Comment CP-3 below.

CP-3 See EIR Section 4.6 (Air Quality, Environmental Setting). The Shell Terminal does not have a separate emission limitation distinct from that of the Shell Martinez Refinery. Instead, Shell Terminal and Shell Refinery operations at the Refinery have a combined limit or cap on emissions: the BAAQMD "REFEMS" permit. The historical background related to the development of this emissions cap is as follows.

- Authority to Construct (ATC) application #26786 was filed with the BAAQMD on December 11, 1978. The application covered a modernization of the Refinery and was known as the Shell Martinez Complex Modernization or West of the Rockies (WOR) Project. The application contained detailed information related to the baseline for Refinery emissions, identified the wharf's contribution to such emissions for each criteria pollutant, and explained how such emissions were calculated. The ATC was issued on May 8, 1980, and included a provision allowing for development of the emissions cap.
- The BAAQMD issued a Permit to Operate (PTO) on November 30, 1984. It includes the emissions cap provisions and was subsequently incorporated into Shell's Title V Permit as condition #7618. The PTO (now condition #7618 of the Title V Permit) is referenced in the EIR as the REFEMS permit.

The Modernization Project, BAAQMD permits, and other required approvals were the subject of an EIR prepared for and approved by Contra Costa County as lead agency (Shell Oil Company Martinez Manufacturing Complex Modernization EIR, October 1979; the EIR, ATC, and PTO are available for public review at the BAAQMD and County of Contra Costa). Both the Air Quality Section (Table 5) and Appendix C "Air Quality" of the Modernization Project EIR discuss and quantify Refinery emissions, including emissions from the Shell Terminal.

The ATC contained individual limits on all new and modified equipment covered by the application, including limits on the Marine Terminal such as tanker sizes and number of voyages. ATC Condition "D" reads as in part:

> *With prior approval of the Air Pollution Control Officer (APCO), Shell may replace all or any of the permit conditions listed above with a system for continuously auditing and reporting to the BAAQMD emission rates from the modified refinery as a running annual average on a pound/hour basis.*
>
> *This continuous audit must demonstrate compliance with the emission limitations, including profile exceedances and off-set requirements specified by the District. Emissions are to be determined using emission factors and/or continuous emission monitoring (CEM) data used by the District in its evaluation of Shell's Permit Application No. 26786, as such data are applied to ship movements, wharf activities, fuel usage, and fugitive emissions. Prior to the substitution of the continuous auditing system for any or all of the conditions listed in Sections A, B, & C above, Shell shall develop and demonstrate the reporting system in a manner acceptable to the APCO….*

The BAACMD's cover letter transmitting the PTO reads as follows:

> *This is to inform you of the Air Pollution Control Officer's decision to modify the conditions of your Permit to Operate the Martinez Manufacturing Complex. These modifications place most of the refinery under a "bubble"; for all pollutants except for hydrocarbons, this bubble will serve as a baseline for future refinery modifications (emphasis added). For hydrocarbons, the bubble will provide Shell with greater operating flexibility while ensuring Shell's compliance with the existing permit.*
>
> *The attached permit conditions, dated November 5, 1984, supersede all conditions which were contained in the previously issued Authority to Construct for the WOR project….*

Particulate matter (PM) is the principal toxic air contaminant of concern with respect to vessel emissions. PM is regulated by the BAAQMD, and PM emissions were a part of the above permit and EIR analysis, specifically including particulate emissions from the Shell Terminal. Other sources of air toxics at the Shell Marine Terminal include fugitive emissions of hydrocarbons, and exhaust emissions from the vapor combustion units (VCUs). Unleaded gasoline vapors include benzene, xylene and toluene. Other volatile products, such as blendstocks, additives, or oxygenates contain less benzene than gasoline. The VCUs oxidize volatile products at a high temperature; therefore, emissions would be very small. The current BAAQMD Title V permit regulates these emissions.

CP-4 See EIR Section 4.6 (Air Quality, Environmental Setting) and Table 4.6-3. Shell is required to track wharf and ship emissions and does so using the calculation protocols dictated by the BAAQMD in Shell's Title V Permit condition #7618. This permit condition requires emission calculations based on factors such as ship type, ship size, marine fuel type, sulfur content in marine fuel, volume of marine fuel combusted, operation (loading or unloading), vessel operation (maneuvering, hoteling, and pumping) and

material involved. Future Shell Terminal emissions will be tracked in the same manner. The wharf emissions contribution to the overall REFEMs emissions is pollutant-specific and is provided in Table 4.6-3 of the EIR.

CP-5 See EIR Section 2.3 (Proposed Project). The Shell Terminal receives both tankers and barges. Typical vessel sizes are in the range of 30,000 to 70,000 deadweight tons (DWT). EIR Section 2.3.5 (Existing and Anticipated Maximum Vessel Calls at the Shell Terminal over the Proposed Lease Period]) describes the typical duration of a vessel call at the Shell Terminal, which varies by the size of its cargo, and the materials that vessels and barges typically deliver to or receive from the Shell Terminal. Because each vessel and barge follows its own schedule, may stop at multiple marine terminals in one voyage, and may experience delays due to unfavorable conditions or lack of berthing space, it is impossible to calculate with any accuracy how long it takes a vessel or barge to travel from the entrance of San Francisco Bay to the Shell Terminal.

CP-6 See EIR Sections 2.3.2 (Physical Description of the Shell Terminal) and 4.6.1 (Environmental Setting). Barges are typically on the order of 15,000 to 30,000 DWT. Emissions for barges are calculated using the calculation protocols dictated by the BAAQMD in Shell's Title V Permit condition #7618. Barges calling on the Shell Terminal do not only operate within San Francisco Bay. Materials that barges typically deliver to or receive from the Shell Terminal are discussed in EIR, Section 2.3.4 (Materials).

CP-7 See EIR Sections 2.3.2 (Physical Description of the Shell Terminal), 2.3.3 (Operational Procedures), and 4.6.1 (Environmental Setting), and Appendix E (Air Quality Analysis Report, Section 3-2, Methodology). Emission calculations for vessels account for round trips to and from the Golden Gate Bridge and the Shell Terminal. Emission calculation protocols are dictated by the BAAQMD in Shell's Title V Permit under permit condition #7618. The methodology for calculating emissions from barges and tugs is also included in permit condition #7618.

CP-8 See EIR Sections 1.2 (Purpose and Scope of the EIR), 2.1.1 (Regional Setting), 2.2 (Project Background), and 4.6.4 (Impact Analysis and Mitigation Measures). Modes of conveyance other than by vessel involving the Shell Terminal are not a part of the lease so were not evaluated in this Final EIR. Historically, the Shell Terminal has experienced more than 365 vessel calls in a year and has not exceeded its REFEMS permit (see EIR Section 4.6.1 [Environmental Setting]).

CP-9 See Response to Comment CP-1. Upland Refinery equipment units are not a part of the Project covered by this Final EIR. Any future projects at the Shell Martinez Refinery or Shell Terminal that require permits from other regulatory agencies may be subject to independent review under the California Environmental Quality Act (CEQA). Upgrades, maintenance, and repair are

expected as a part of the 30-year lease and may be required pursuant to the CSLC's Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS) (24 CCR § 3101F et seq.).

CP-10 See EIR Sections 2.3.4 (Volumes and Types of Materials Handled in Recent Years) and 2.3.5 (Existing and Anticipated Maximum Vessel Calls at the Shell Terminal over the Proposed Lease Period), and Table 2.3-1. The maximum capacity of the Shell Terminal is based on historical throughputs realized. The BAAQMD Title V Permit also places limits on combined Refinery and Terminal throughput and emissions.

CP-11 See EIR Section 4.6.1 (Environmental Setting). "Measured" and "calculated" emissions mean the emissions measured and calculated by Shell and submitted monthly to the BAAQMD pursuant to the REFEMS permit. "Yearly" refers to the annual emissions profile provided for in the REFEMS permit to measure compliance. As explained in EIR Section 4.6 (Air Quality), the no significant effect conclusion was based on the fact that Shell has historically had more annual vessel calls at its wharf without approaching its REFEMS limits; 330 calls is the maximum anticipated to occur as a result of this Project. The EIR identifies the methods for calculating post- and pre-Project emissions (see Section 4.6 [Air Quality] and Appendix E [Air Quality Analysis, Section 3.2 Methodology]). The impact analysis was prepared in accordance with the methodologies in the BAAQMD CEQA Guidelines Assessing the Air Quality Impacts of Projects and Plans (1999). Regional impacts for operations were assessed using emission factors obtained from the methodologies accepted by the BAAQMD, California Air Resources Board (CARB) and U.S. Environmental Protection Agency (EPA).

CP-12 See Responses to Comments CP-3 and CP-4, and EIR Section 4.6.4 (Impact Analysis and Mitigation Measures). The BAAQMD cover letter transmitting the REFEMS permit to Shell states that the REFEMS permit limits *"will serve as a baseline for future refinery modifications"* (emphasis added). While the Project will result in an increase in emissions, it will not increase emissions above Shell's REFEMS permit, which limits emissions from the Shell Refinery and Terminal and serves as the air quality baseline for this EIR per BAAQMD.

CP-13 See EIR Section 4.6.4 (Impact Analysis and Mitigation Measures) and Response to Comment SFB-7. Outer Berths #1 and #2 at the Shell Terminal have never been dredged and are not anticipated to require dredging during the term of the Project. Berths #3 and #4 have not been dredged in more than 20 years. Although Shell does not intend to dredge Berths #3 and #4 in the foreseeable future and has not applied for any required dredging permits, this EIR (Section 4.6.4, Impact Analysis and Mitigation Measures) estimated emissions from such dredging. Dredging at Berths #3 and #4 would create short-term emissions, with a duration of less than one week. The dredging emissions would not add to the long-term emissions associated with daily Shell Terminal operations.

CP-14 These tables accurately reflect the time frames analyzed in the EIR, corresponding with the 2004 date of release of the NOP. For reference, years 2004 through 2010 have been added to Tables 4.6-1 and 4.6-5 (see Sections 4.6.1 [Environmental Setting] and 4.6.2 [Regulatory Setting]).

CP-15 See EIR Section 1.2.3 (Definition of Baseline and Future Conditions) for a discussion of the definition of baseline for this proposed lease renewal. The NOP was issued in 2004. Baselines were used to represent the existing conditions as close as possible to this date. The period 2001 through 2003 was used in Table 4.6-1 for ambient air quality data collected at the BAAQMD monitoring stations as these years were representative of the time period immediately preceding the NOP; for reference, years 2004 through 2010 have also been added to Tables 4.6-1 and 4.6-5 of the Final EIR (see Sections 4.6.1 [Environmental Setting] and 4.6.2 [Regulatory Setting]; please also refer to Response to Comment CP-17).

CP-16 See EIR Section 4.6.1 (Environmental Setting). The Vapor Control System (VCS) is a BAAQMD requirement. Its efficiency (95 percent) is governed by BAAQMD Regulation 8-44 and Condition #4288 in Shell's Title V Permit, both of which apply to Shell's current and future operations at the Shell Terminal.

CP-17 See EIR Section 4.6.1 (Environmental Setting), for a discussion of baseline emissions. As discussed in the EIR, Shell Refinery wharf emissions are regulated as part of Shell's Major Facility Title V permit and are included as part of the Refinery Emissions Cap (REFEMS) specified in Permit Condition #7618. The air quality analysis (Appendix E of the Final EIR) needed to separate out Shell Terminal emissions from Refinery emissions. According to Mr. Krishnaswamy of the BAAQMD, there is no clear interpretation of how the wharf emissions were segregated in the initial permitting process. Existing accessible records for emissions related to Shell Terminal operations date back to 1995, which was used as the permitted baseline for calculating air emissions. The 1995 percentage of the total emissions attributed to the wharf operations was compared to the 2004 REFEMS annual inventory with respect to the REFEMS cap. Primary sources of air emissions are from the operation of vapor recovery/thermal oxidizer, loading operations and fugitive sources (tanks, pumps, valves and flanges), tug combustion emissions, and tanker hoteling, tanker transit, and tanker pumping. All vessel types were taken into account when calculating emissions. Post-Project emissions will not cause Shell to exceed its REFEMS cap.

Two baseline emission scenarios were used to calculate greenhouse gas (GHG) emissions: 1995 GHG emission calculations represent the "permitted baseline" and 2007 GHG emission calculations represent the "CEQA baseline." The year 2007 was used for GHGs because prior to that date these constituents were not considered to be contaminants of concern, thereby limiting the information available from earlier years. Primary sources of GHG emissions are from tanker transit and tug combustion emissions.

CP-18 See Response to Comment CP-3. Table 4.6-2 is discussed in detail in EIR Section 4.6.1 (Environmental Setting). The Total REFEMS Regulatory Limit represents the allowable emissions under the REFEMS permit in 1995. Total REFEMS emissions represent what was actually emitted in 1995. The Total REFEMS Regulatory Limit was derived by the BAAQMD as part of its regulatory authority.

COMMENT SET 6: SHELL OIL PRODUCTS US

Shell Oil Products US

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CERTIFIED MAIL

February 22, 2010

Certified Mail

Scott McFarlin, Project Manager
California State Lands Commission
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Sacramento, CA 95825

Re: **Shell Martinez Marine Oil Terminal Draft Environmental Impact Report/Shell Comments**

Dear Mr. McFarlin:

Equilon Enterprises LLC, dba Shell Oil Products US (Shell) submits the following comments on the Draft Environmental Impact Report (DEIR) for the Shell Martinez Marine Terminal Lease Consideration issued in January 2010.

Chapter 4.1 Operational Safety/Risk of Accidents:

Page 4.1-35 - Mitigation Measures OS-3a and 3b. The new devices required by these mitigation measures are required to be installed within 12 months of lease implementation. To allow for proper engineering, design, installation, and testing of these new devices, please allow 24 months (rather than 12 months) from the date of lease implementation. SHELL-1

Chapter 4.2 Water Quality:

Page 4.2-43 - The language at the top of the page under the Rational for Mitigation Measure WQ-7 should be conformed to the language in the Mitigation Measure; namely, that Shell will supply the SLC with certifications from the vessel master or its authorized representative that the vessels are in compliance with IMO rather than Shell certifying compliance. SHELL-2

Chapter 4.3 Biological Resources:

Page 4.3-60 - Mitigation Measure BIO-4b. Shell has no objection to participating in and/or paying its fair share of the activities covered by this mitigation measure, but believes that Shell should be a participant in the process for determining Shell's "commensurate share." SHELL-3

Page 4.3-75 - Mitigation Measure BIO-6d. This mitigation measure should apply only if a spill affecting natural resources occurs for which Shell is finally determined to be responsible. SHELL-4

Chapter 4.4 Commercial and Sport Fisheries:

Page 4.4-17 - Mitigation Measure FSH-1. Shell has no objection to providing the notices and undertaking the required interaction with shrimp trawlers included in this mitigation measure, but requests that Shell be provided with a means of identifying shrimp trawlers operating within the north and east bay. SHELL-5

Page 4.4-21 Mitigation Measure FSH-6. Shell has no objection to providing the notices and undertaking the required interaction with herring fishery included in this mitigation measure, but requests that Shell be provided with a means of identifying members of the herring fishery operating within the north and east bay. Shell also requests that it be provided with advance notice of the annual CDFG's review of commercial herring fishing regulations. SHELL-6

Page 4.4-26 Mitigation Measure FSH-9b. Please add at the beginning of this Mitigation Measure " In the event of a spill at the Shell Terminal, Shell will..." SHELL-7

Page 4.4-26 Mitigation Measure FSH-9c. Please delete this Mitigation Measure. Numerous state and federal statutes, laws and regulations and common law (Spill Laws) govern liability and compensation for damages caused by parties liable for a spill. Such Spill Laws should govern those issues rather than a mitigation measure or lease condition. Should this Mitigation Measure remain, it should only apply if Shell is finally determined to be liable for a Spill. SHELL-8

Chapter 4.6 Air Quality:

Page 4.6-5 The REFEMS permit was issued by the BAAQMD in connection with the Shell Oil Company Martinez Manufacturing Complex's Modernization project. An Environmental Impact Report (EIR) was prepared and certified for the project for Contra Costa County and is on file with this agency. The Air Quality section of that EIR and its Air Quality Appendix contains information regarding project emissions from the wharf. The information contained in the Modernization Project EIR is generally consistent with the information contained in this section of this DEIR. Shell requests that this language is placed in the document to provide additional context for the air quality section. SHELL-9

Page 4.6-6, Table 4.6-2. This table includes a line item for "Regulatory Wharf Limit (tons per year)..." In fact, and as accurately described in the text at the top of this page 4.6-6, REFEMS is an emissions cap permit that limits emissions from the refinery as a whole. There is no separate limit on emissions from the wharf as they are considered with all other refinery emissions. Emission increases at the wharf can be offset with emission decreases from other parts of the refinery and vice versa. Shell requests that this language is placed in the document to provide additional clarity for the air quality section. SHELL-10

Page 4.6-7, Third paragraph. Shell assumes that the reference to "Shore Terminals" is a typo and should be to "Shell." The same reference also appears in Appendix E. SHELL-11

Page 4.6-7,19, and 27-29. Greenhouse Gas (GHG). With the adoption of AB 32 and related legislation, California has become a leader with respect to the quantification and regulation of greenhouse gases. As discussed in greater detail in the Appendix E of this DEIR, while final regulations have yet to be adopted, all covered GHG emission sources (including refineries) must reduce emissions to 1990 levels by 2020. As stated in this DEIR, no regulatory entity has yet adopted a numeric threshold of significance for GHG emissions for CEQA purposes. Several California jurisdictions are currently in the process of adopting GHG thresholds of significance under CEQA, including the Bay Area Air Quality Management District (BAAQMD) within which the Martinez Refinery is located. SHELL-12

The DEIR states that the Project is not anticipated to result in GHG emissions that would be deemed significant. Estimating GHG emissions from vessels, including transit, loading, pumping, maneuvering and hoteling is a particularly complex process, which can produce varying results. Any future project proposed by the refinery that would increase GHG emissions from the refinery or from the wharf will undergo its own CEQA review, including the requirement to mitigate any GHG emissions in excess of any then applicable CEQA threshold of significance.

Chapter 6.5 Mitigation Monitoring Table:

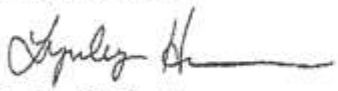
Pages 6.4-Table 6-1. To the extent that changes are made to mitigation measures as requested by Shell, corresponding changes will need to be made in this Table. SHELL-13

Chapter 4.12 Environmental Justice

Page 4.12-10 Environmental Justice EJ-1. Shell suggests that this Mitigation Measure be implemented if CDFG, or a local agency responsible for public health, issues a notice of fishing closures based on a site's specific conditions following a release. The duration of the closure to be determined by the agency or agencies issuing the closure. Further, this Mitigation Measure should only apply if Shell is finally determined to be responsible for a Spill. SHELL-14

Thank you for your consideration of the above comments.

Very truly yours,



Lynley C. Harris
Manager, Environmental Affairs Department
Shell Oil Products US, Martinez Refinery

RESPONSES TO COMMENT SET 6: SHELL OIL PRODUCTS US

SHELL-1 Changes were made to Mitigation Measures (MMs) OS-3a and OS-3b (see Section 4.1.4 [Impacts Analysis and Mitigation Measures] of this Final EIR for the revised text).

SHELL-2 Changes were made to MM WQ-7 (see Section 4.2.4 [Impacts Analysis and Mitigation Measures]).

SHELL-3 Changes were made to MM BIO-4b (see Section 4.3.4 [Impacts Analysis and Mitigation Measures]).

SHELL-4 Changes were made to MM BIO-6d (see Section 4.3.4 [Impacts Analysis and Mitigation Measures]).

SHELL-5 Changes were made to MM FSH-1 (see Section 4.4.4 [Impacts Analysis and Mitigation Measures]).

SHELL-6 Changes were made to MM FSH-6 (see Section 4.4.4 [Impacts Analysis and Mitigation Measures]).

SHELL-7 Changes were made to MM FSH-9b (see Section 4.4.4 [Impacts Analysis and Mitigation Measures]).

SHELL-8 Changes were made to MM FSH-9c (see Section 4.4.4 [Impacts Analysis and Mitigation Measures]).

SHELL-9 As discussed in EIR Section 4.6-1, wharf emissions are included in Shell's Refinery Emissions Cap (REFEMS), as specified in Bay Area Air Quality Management District (BAAQMD) Permit Condition Number 7618. Information regarding the REFEMS permit issued by the BAAQMD in connection with the Shell Oil Company Martinez Manufacturing Complex Modernization project was added to EIR Section 4.6.1 [Environmental Setting]).

SHELL-10 Information on the Shell Refinery and Wharf REFEMS permit and emissions cap was added to EIR Section 4.6.1 [Environmental Setting]).

SHELL-11 Shore Terminal greenhouse gas (GHG) estimates were used in this (Shell Terminal) EIR to estimate GHG emissions.

SHELL-12 Comment noted regarding GHGs.

SHELL-13 Table 6-1 has been updated to reflect applicable changes to the Final EIR.

SHELL-14 Changes were made to MM EJ-1 (see Section 4.12.4 [Impacts Analysis and Mitigation Measures]).